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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Appl. No. 10/559,851

Filed: 12/02/2005

Applicant: Michael Andrew Singer

Title: Low Carbohydrate Sweetener

Art Unit: 1794

Commissioner For Patents

P.O. Box 1450

Alexandria, Virginia 22313-1450

Examiner: Ms. Kelly Bekker

Attorney For Applicant

Albert Brent

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February 19, 2009

AMENDMENT

Reconsideration and withdrawal or modification of the Examiner's requirement for Election / Restriction is respectfully requested by applicant.

In the event that the requirement for Restriction / Election becomes final then applicant makes a provisional Election of Group II claims 21 and 22, with traverse. However, applicant respectfully requests that the Examiner considers his request for the disposition of the claims as presented on page 7 of this amendment.

The Examiner required restriction between the following Groups of claims:

Group 1, Claim{s} 17-20, drawn to an ice cream composition containing Lo Han Kuo Extract.

Group II , Claims 21 – 22 , drawn to powdered low carbohydrate sweetener comprising Lo Han Kuo Extract .

Group III , Claim{s} 23 – 25 , drawn to a cane sugar free sweetener comprising Lo Han Kuo extract.

Group IV . Claims{s} , 26 - 28, drawn to a process for making ice cream containing Lo Han Kuo Extract.

Applicant respectfully denies the Examiner's statement that " Groups I through IV do not relate to a single general inventive concept under Rule PCT Rule 13.1 because under Rule PCT 13.2 they lack the same or corresponding special technical features for the following reasons : the corresponding technical feature is the use of Lo Han Kuo extract as a sweetener in foods , such as ice cream. " and the statement , " Thus, the corresponding feature linking the Groups of inventions is not a special technical feature and the Groups do not relate to a single general Inventive concept. "

Applicant's special technical feature , which is provided in the claims in Groups I to IV and which is a special feature that links the Groups of inventions so that the Groups relate to a single general inventive concept , consists of a synergistic mixture of powdered Sucralose and Lo Han Kuo Extract powder.

Applicant's novel sweetener is not taught nor suggested by the prior art, including the reference Sarama et al (US 2003/0045473 A1). The juice of Luo Han Guo taught by Sarama et al , is materially and functionally different from applicant's powdered Lo Han Kuo. Applicant's all powdered composition is a low carbohydrate sweetener used to sweeten ice cream, baked goods, candy, and beverages. It provides a synergistic sweetening without side effects. The liquid composition of Sarama et.al is mainly used for medicinal purposes; but , It may be used to make shortening or replace fats and oils present in foods, and ice cream.

The Examiner has not properly indicated the classification or separate status of each group of claims, as for example by class and subclass. See MPEP Sect. 817. The Examiner has not provided a conclusion to the restriction requirement , including that the inventions require a different field of search , which would be a serious burden to the Examiner. New Claim 30 presented in applicant's amendment of March 26, 2007 was not classified by the Examiner.



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COVER LETTER FOR AMENDMENT

Commissioner For Patents

Dear Ms. Kelly Bekker;

Please accept the attached Amendment which is in response to the office action of 02/03/2009 . Thank you.

Sincerely,

Albert Brent, Reg. No. 18,459

CERTIFICATE OF EXPRESS MAILING

Certification under 37 CFR 1.10 Express Mail mailing receipt
EH 282427120 US, Date of deposit February 19, 2009 . I hereby
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Correspondence

Albert Brent

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